IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1476 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NIRMALABEN WD/O.DAMODAR MADHAVJI BHATT - Appellant(s)
Versus
RAMJIBHAI M VAGHELA & 1 - Defendant(s)

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Appearance :
MR CH VORA for Appellant(s) : 1, 1.2.1, 1.2.2, 1.2.3,1.2.4
NOTICE SERVED for Respondent No.1.
MS JYOTI MEHTA for Respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 14/08/2007

ORAL JUDGMENT

1. Mr.C.H. Vora, learned counsel for the appellants. None for the respondent No.1. Ms.Jyoti Mehta, learned counsel for the respondent No.2.

2. The appellants being aggrieved by the award

dtd.19/8/1989 passed by the Motor Accident Claims Tribunal (Main), Kutch at Bhuj in Motor Accident Claim Petition No.303 of 1985, are before this Court with a submission that the tribunal was unjustified in awarding a sum of Rs.50,000=00 in favour of the claimants.

3. Undisputedly, the person who met with the accident namely Damodar Madhavji Bhatt suffered injuries and none of the injury was fatal, after suffering injuries, he was given some medical treatment, but, it appears that he could not come out of aftereffect of the injury and developed septicemia. During the life time, the said Damodar Madhavji Bhatt filed a claim petition, but, after his unfortunate death, he was substituted by the present appellants. The appellants' now submitted that as the death was the result of injuries, they would be entitled to better compensation.

4. Ms.Jyoti Mehta, learned counsel for the respondent No.2, on the other hand, submitted that there is no nexus or connection between the injuries and the death and as the claim of compensation was personal to the deceased, it could not be transferred or succeeded by the present appellants, the tribunal was not entitled to make any award in relation to future loss of income.

5. Undisputedly, Damodar Madhavji Bhatt met with an accident on 5/9/1985, he filed the claim petition, but, ultimately died on 9/3/1988. The cause of death, according to the appellants was septicemia and toxemia. They do not say that the deceased died as a result of the injuries suffered during the course of the accident.
6. In such a case, the dependents, after the death of the injured, would only be entitled to claim compensation to the extent the estate of the deceased has suffered the loss. Unfortunately, in the present case, the claimants could not prove any connection between the accident and the cause of the death. If that be so, the claimants would not be entitled to any compensation under the head of loss of future income.
7. I find no reason to interfere. The appeal deserves to and is accordingly dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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